

**THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

HEADWATER RESEARCH LLC,

*Plaintiff,*

v.

SAMSUNG ELECTRONIC CO., LTD and  
SAMSUNG ELECTRONICS AMERICA, INC.,

*Defendants.*

Case No. 2:22-CV-00422-JRG-RSP

**JOINT REPORT OF RESULTS OF MEET AND CONFER  
REGARDING MOTION SET FOR HEARING**

Pursuant to the Paragraph 9(d) of the Court's Discovery Order (Dkt. No. 56), the parties respectfully submit this joint report regarding the results of their subsequent meeting among the parties' lead and local counsel.

On April 19, 2024, the parties' lead and local counsel, Marc Fenster, Chris Bunt, Ruffin Cordell, and Melissa Smith, met via Zoom to discuss the motions set for hearing before the Court on April 24, 2024. *See* Dkt. Nos. 88, 96, 99, 100, 113, 116, 136, 137. As detailed below, the parties agreed that certain of the disputes at issue in those motions have been resolved, narrowing the scope of disputes that remain for the Court's adjudication.

**I. [Dkt. No. 114] Samsung's Motion to Compel Regarding Krista Jacobsen (filed in N.D. Cal., transferred to this Court as No. 2:24-mc-0003):**

- A. Per the Court's direction at the March 14, 2024 hearing, the parties have each selected for *in camera* review five entries from each of the four categories of entries on Jacobsen's privilege log that remain in dispute.
- B. The parties will deliver to the Court paper copies of the forty selected entries for the Court's reference in conducting its review. Jacobsen's counsel will also bring to the hearing electronic copies of all documents in the four categories in dispute.

**II. [Dkt 88] Samsung's Motion to Compel Production of Documents Regarding Headwater's Patent Portfolio Sale Negotiations with Third Parties**

- A. Headwater represents that it has produced all responsive non-privileged documents concerning the subject matter of this motion.
- B. The parties continue to dispute Headwater's withholding of many responsive documents under the assertion of privilege pursuant to the common interest doctrine.

**III. [Dkt 96] Samsung's Motion to Compel Withheld Responsive ESI**

- A. The parties have not yet been able to resolve the disputes at issue in this motion, but the parties will continue to communicate in advance of the scheduled hearing in an effort to narrow or resolve the issues.

**IV. [Dkt 99] Headwater's Motion to Compel Analyses of Battery Savings Benefits**

- A. In addition to Samsung's representations made in briefing and correspondence, Samsung represented on April 22, 2024, that it is not withholding any relevant and responsive documents at issue in this motion, but that the third-party

vendors/agencies Samsung hired to perform its surveys and studies may have the underlying data Headwater seeks.

B. The parties continue to dispute Samsung's failure to produce the underlying data.

**V. [Dkt. No. 100] Samsung's Motion to Compel Production of Documents Withheld under Improper Assertions of Privilege, Work Product, and Common Interest and for Headwater to Cure Its Deficient Privilege Log**

A. The following aspects of Samsung's motion remain in dispute for the Court's adjudication:

1. Communications with InterDigital withheld as privileged pursuant to the common interest doctrine (*see* Dkt. No. 100. at § IV.C.1);
2. Communications with ItsOn withheld as privileged (i) pursuant to the common interest doctrine and (ii) on behalf of a defunct entity (*see id.* § IV.C.2 and D); and
3. Communications with Verizon withheld as privileged pursuant to the common interest doctrine (*see id.* § IV.B).

B. The parties have resolved all other issues in Samsung's motion.

**VI. [Dkt 113] Headwater's Motion to Compel Battery Testing Evidence**

A. In addition to Samsung's representations made in briefing and the record, Samsung represented on April 23, 2024, that it is not withholding any relevant and responsive documents at issue in this motion, and that Samsung does not conduct internal testing for any of the accused features for any of the Accused Products.

B. The parties continue to dispute Samsung's failure to produce testing performed for any of the accused features, irrespective of whether they are tested specifically for the U.S. Accused Products because testing of the accused features is relevant regardless of what specific Samsung device is under test.

**VII. [Dkt 116] Samsung's Motion 1) to Compel Re-Production of Clawed Back Document and 2) to Order that Headwater Waived Privilege as to its Pre-Suit Communications with Counsel re Suing Samsung**

A. Based on Headwater's subsequent production of the clawed-back document, the parties have resolved that aspect of this motion (*see* Dkt. No. 116 at § IV.A), which the parties agree is now moot.

B. The parties have not been able to resolve the second aspect of this motion, concerning the alleged waiver of privilege regarding any decision not to sue Samsung in 2016-2018 (*see id.* at § IV.B), and that dispute remains for the Court's adjudication.

**VIII. [Dkt 136] Samsung's Motion to Compel Documents, Discovery Responses**

- A. Based on Headwater's subsequent supplementation of its discovery responses, the parties have resolved the aspects of Samsung's motion concerning Interrogatory Nos. 27, 29, 33-34, and 40 and Requests for Admission 30-31 and 33-38, which the parties agree are now moot.
- B. The parties have not been able to resolve the aspects of this motion concerning Interrogatories 18-21, 28, 30-32, and 38-39, which remain for the Court's adjudication.

**IX. [Dkt 137] Samsung's Motion to Compel re Late Produced Redacted Document**

- A. Based on Headwater's subsequent production of unredacted and less-redacted copies of various documents, the parties have resolved the aspects of this motion concerning Headwater's interactions with Fortress, Centerbridge, and Validity (*see* Dkt. No. 137 at § IV.A.), which the parties agree are now moot.
- B. The parties have been unable to resolve the aspect of this motion concerning InterDigital (*see id.* at § IV.B.), which remains for the Court's adjudication.

Respectfully submitted,

By: /s/ Jason Wietholter

Marc Fenster  
CA State Bar No. 181067  
Reza Mirzaie  
CA State Bar No. 246953  
Brian Ledahl  
CA State Bar No. 186579  
Ben Wang  
CA State Bar No. 228712  
Paul Kroeger  
CA State Bar No. 229074  
Neil A. Rubin  
CA State Bar No. 250761  
Kristopher Davis  
CA State Bar No. 329627  
James S. Tsuei  
CA State Bar No. 285530  
Philip Wang  
CA State Bar No. 262239  
Amy Hayden  
CA State Bar No. 287026  
James Milkey  
CA State Bar No. 281283  
Jason M. Wietholter

CA State Bar No. 337139  
James N. Pickens  
CA State Bar No. 307474  
RUSS AUGUST & KABAT  
12424 Wilshire Blvd. 12th Floor  
Los Angeles, CA 90025  
Telephone: 310-826-7474  
headwater@raklaw.com

Robert Christopher Bunt  
Parker, Bunt & Ainsworth, P.C.  
Texas State Bar No. 00787165  
100 E. Ferguson Suite 418  
Tyler, Texas 75702  
Tel.: (903) 531-3535  
rcbunt@pbatyler.com

**ATTORNEYS FOR PLAINTIFF,  
Headwater Research LLC**

By: /s/Noah C. Graubart

Ruffin B. Cordell  
TX Bar No. 04820550  
cordell@fr.com  
Michael J. McKeon  
D.C. Bar No. 459780  
mckeon@fr.com  
Indranil Mukerji  
MA Bar 644059  
mukerji@fr.com  
Stephen A. Marshall  
D.C. Bar No. 1012870  
smarshall@fr.com  
FISH & RICHARDSON P.C.  
1000 Maine Ave SW  
Suite 1000  
Washington DC, 20024  
Telephone: (202) 783-5070  
Facsimile: (202) 783-2331

Leonard E. Davis  
TX Bar No. 05521600  
ldavis@fr.com  
FISH & RICHARDSON P.C.  
1717 Main Street, Suite 5000

Dallas, TX 75201  
Telephone: (214) 747-5070  
Facsimile: (214) 747-2091

Noah C. Graubart  
Georgia Bar No. 141862  
[graubart@fr.com](mailto:graubart@fr.com)  
FISH & RICHARDSON P.C.  
1180 Peachtree St. NE, Fl. 21  
Atlanta, GA 30309  
Telephone: (404) 892-5005  
Facsimile: (404) 892-5002

**COUNSEL FOR SAMSUNG ELECTRONICS  
AMERICA, INC. AND SAMSUNG  
ELECTRONICS CO., LTD.**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was filed electronically in compliance with Local Rule CV-5 on April 23, 2024. As of this date, all counsel of record had consented to electronic service and are being served with a copy of this document through the Court's CM/ECF system under Local Rule CV-5(a)(3)(A).

/s/ Jason Wietholter

Jason Wietholter